

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

| | | |
|---------------------------|---|---------------------------------------|
| DATREC, LLC, |) | |
| Plaintiff, |) | |
| |) | Civil Action No. 6:21-cv-00126 |
| v. |) | |
| |) | |
| CERNER CORPORATION |) | JURY TRIAL DEMANDED |
| Defendant. |) | |

PLAINTIFF’S ORIGINAL COMPLAINT FOR PATENT INFRINGEMENT

DatRec, LLC (“DatRec”) files this Original Complaint and demand for jury trial seeking relief from patent infringement of the claims of U.S. Patent No. 8,156,158 (“the ‘158 patent”) (referred to as the “Patent-in-Suit”) by Cerner Corporation (“Cerner”).

I. THE PARTIES

1. Plaintiff DatRec is a Texas Limited Liability Company with its principal place of business located in Harris County, Texas.

2. On information and belief, Cerner is a corporation existing under the laws of the State of Delaware, with a principal place of business located at 500 4th St, Odessa, Texas 79761. On information and belief, Cerner sells and offers to sell products and services throughout Texas, including in this judicial district, and introduces products and services that perform infringing methods or processes into the stream of commerce knowing that they would be sold in Texas and this judicial district. Defendant may be served at its place of business.

II. JURISDICTION AND VENUE

3. This Court has original subject-matter jurisdiction over the entire action pursuant to 28 U.S.C. §§ 1331 and 1338(a) because Plaintiff’s claim arises under an Act of Congress relating to patents, namely, 35 U.S.C. § 271.

4. This Court has personal jurisdiction over Defendant because: (i) Defendant is present within or has minimum contacts within the State of Texas and this judicial district; (ii) Defendant has purposefully availed itself of the privileges of conducting business in the State of Texas and in this judicial district; and (iii) Plaintiff's cause of action arises directly from Defendant's business contacts and other activities in the State of Texas and in this judicial district.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b) and 1400(b). Defendant has committed acts of infringement and has a regular and established place of business in this District. Further, venue is proper because Defendant conducts substantial business in this forum, directly or through intermediaries, including: (i) at least a portion of the infringements alleged herein; and (ii) regularly doing or soliciting business, engaging in other persistent courses of conduct and/or deriving substantial revenue from goods and services provided to individuals in Texas and this District.

III. INFRINGEMENT

A. Infringement of the '158 Patent

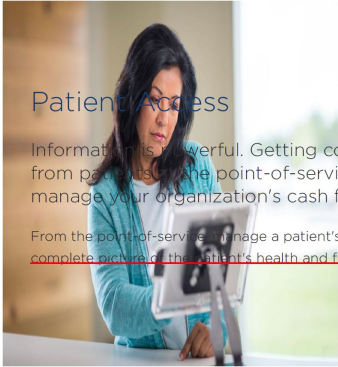
6. On April 10, 2012, U.S. Patent No. 8,156,158 ("the '158 patent", attached as Exhibit A) entitled "Method and System for Use of a Database of Personal Data Records" was duly and legally issued by the U.S. Patent and Trademark Office. DatRec, LLC owns the '158 patent by assignment.

7. The '158 patent relates to a novel and improved manner of constructing a verified database of identified individuals capable of processing with a subgroup of at least one medical application.

8. Cerner maintains, operates, and administers electronic health records that infringes one or more claims of the '158 patent, including one or more of claims 1-23, literally or under the doctrine of equivalents. Defendant put the inventions claimed by the '158 Patent into service (i.e., used

them); but for Defendant's actions, the claimed-inventions embodiments involving Defendant's products and services would never have been put into service. Defendant's acts complained of herein caused those claimed-invention embodiments as a whole to perform, and Defendant's procurement of monetary and commercial benefit from it.

9. Support for the allegations of infringement may be found in the following preliminary table:

| 10. Claim 1 | Cerner |
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| <p>1. A method for using and managing a database, the method comprising:</p> | <p>Plaintiff contends that Cerner EHR provides a system and/or method for using and managing a database:</p> <p>Cerner Millennium</p> <p>Whether you refer to it as an electronic health record (EHR), electronic patient record (EPR) or electronic medical record (EMR), it all boils down to one thing – having a single source of truth for your patients' information.</p> <p>Our EHR is Cerner <i>Millennium</i>, and it is the basis for all our core clinical solutions. As well as <u>keeping patient information</u> updated in real-time, it <u>provides you with secure access wherever and whenever you need it, putting an end to siloed data.</u></p> <p>Attachment 1 (Attachment 1_Millennium _ Cerner Sweden) at 1.</p> <p>Source: https://www.cerner.com/se/en/solutions/millennium</p>  <p>Patient Access</p> <p>Information is powerful. Getting complete and accurate information from patients at the point-of-service is a necessary step to help manage your organization's cash flow.</p> <p>From the point-of-service, manage a patient's identity by <u>creating a single patient record with a complete picture of the patient's health and financial information.</u></p> |

| 10. Claim 1 | Cerner |
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| | <p>Attachment 2 (Patient Access Software Solutions - Patient Record Access Services) at 1</p> <p>Source: https://www.cerner.com/solutions/patient-access</p> |
| <p>providing a verified database of a plurality of identified individuals, the verified database comprising a plurality of individual-identifier data sets (IDSs) and relationship data; and</p> | <p>Plaintiff contends that a verified database of a plurality of identified individuals is provided which comprises a plurality of individual-identifier data sets (IDSs) and relationship data. The following exemplifies this limitation's existence in Accused Systems:</p> <p><u>Manage a patient's identity</u> with a facility-wide offering that enables <u>storage and maintenance of your patients' data</u>, including demographic, <u>relationship</u>, guarantor, employer and insurance information. EMPI facilitates the <u>integrity of a single person record</u> and enables the end-user to find the right person at the right time, while <u>helping to reduce as many duplicate person records as possible</u>.</p> <p>Attachment 2 (Patient Access Software Solutions - Patient Record Access Services) at 2</p> <p>Source: https://www.cerner.com/solutions/patient-access</p> |
| <p>processing said verified database in accordance with one or more parameters or conditions selected in accordance with at least one medical application and creating a sub-group database including data records of the individuals from the verified database having said one or more</p> | <p>Plaintiff contends that the verified database is processed in accordance with one or more parameters or conditions selected in accordance with at least one medical application and a sub-group database is created (for example, filtering, sorting, etc.) including data records of the individuals from the verified database having said one or more selected parameters or conditions, thereby allowing collection of data comprising one or more selected parameters or conditions and delivery of at least part of the collected data to one or more users. Further, data from the verified database is applied to provide personalized medicine service to at least one of the identified individuals. The following exemplifies this limitation's existence in Accused Systems:</p> |

| 10. Claim 1 | Cerner | | | | | | | | | | | | | | | | | | |
|--|--|--|--|--|--|---------------|---|----------|------------|-------|-----------------|--------|--------------------------|-------------|---|------|--|-----------------|---|
| selected parameters or conditions, thereby allowing collection of data comprising one or more selected parameters or conditions and delivery of at least part of the collected data to one or more users and enable to apply data from said verified database to provide personalized medicine service to at least one of said identified individuals; | <p>Beyond the molecular workflow, Cerner is working with our clients to define the correct roles and data needed in the EHR to support genomic-driven precision medicine. Examples of this client-driven work include <u>incorporating the genetic councillor into a formal EHR workflow, pilot projected around capturing a structured phenotypes and family history via third-party tools</u>, and NLP-based extraction of phenotype via chart search.</p> <p>For our EHR-based work with our clients, we are heavily leveraging a standards-backed approach via SMART® on <u>FHIR®</u> and CDS Hooks. Through significant investments both in our client infrastructure and associate thought leadership, we are developing a clear path and plan for third-party interests, such as a genomic content provider for pharmacogenomics, to integrate into the Cerner family of solutions. <u>While some of the FHIR services</u> (such as sequence for genomics) are very nascent, Cerner believes that <u>this pluggable-architecture approach provides a scalable foundation for precision medicine for our clients</u>.</p> <p>Attachment 3 (Date-research) at 3</p> <p>Source: https://www.cerner.com/ap/en/solutions/data-research</p> <p>4.4.2.19579_HL7 v3 Value Set FamilyMember</p> <table><tr><td>Vocabulary ID (http://www.hl7.org/Special/committees/Vocab/index.cfm) Work Group</td><td>Maturity Level (./versions.html#maturity): 1</td><td>Draft (./versions.html#std:process)</td><td>Use Context (./metadatavoies.html#UsageContext): Any</td></tr></table> <p>This value set (http://terminology.hl7.org/ValueSet/v3-FamilyMember) is defined as part of HL7 v3.</p> <p>Summary</p> <table><tr><td>Defining URL:</td><td>http://terminology.hl7.org/ValueSet/v3-FamilyMember</td></tr><tr><td>Version:</td><td>2014-03-26</td></tr><tr><td>Name:</td><td>v3.FamilyMember</td></tr><tr><td>Title:</td><td>V3 Value SetFamilyMember</td></tr><tr><td>Definition:</td><td><u>A relationship between two people characterizing their "familial" relationship</u></td></tr><tr><td>OID:</td><td>2.16.840.1.113883.1.11.19579 (for OID based terminology systems)</td></tr><tr><td>Source Resource</td><td>XML (v3-FamilyMember.xml.html) / JSON (v3-FamilyMember.json.html)</td></tr></table> <p>Nots: Cerner employ FHIR standard and the FHIR standard include FamilyMember defining a relationship between two people characterizing their familial relationship.</p> <p>Attachment 4 (FamilyMember - FHIR v4.0.1) at 1.</p> <p>Source: https://www.hl7.org/fhir/v3/FamilyMember/vs.html</p> | Vocabulary ID (http://www.hl7.org/Special/committees/Vocab/index.cfm) Work Group | Maturity Level (./versions.html#maturity): 1 | Draft (./versions.html#std:process) | Use Context (./metadatavoies.html#UsageContext): Any | Defining URL: | http://terminology.hl7.org/ValueSet/v3-FamilyMember | Version: | 2014-03-26 | Name: | v3.FamilyMember | Title: | V3 Value SetFamilyMember | Definition: | <u>A relationship between two people characterizing their "familial" relationship</u> | OID: | 2.16.840.1.113883.1.11.19579 (for OID based terminology systems) | Source Resource | XML (v3-FamilyMember.xml.html) / JSON (v3-FamilyMember.json.html) |
| Vocabulary ID (http://www.hl7.org/Special/committees/Vocab/index.cfm) Work Group | Maturity Level (./versions.html#maturity): 1 | Draft (./versions.html#std:process) | Use Context (./metadatavoies.html#UsageContext): Any | | | | | | | | | | | | | | | | |
| Defining URL: | http://terminology.hl7.org/ValueSet/v3-FamilyMember | | | | | | | | | | | | | | | | | | |
| Version: | 2014-03-26 | | | | | | | | | | | | | | | | | | |
| Name: | v3.FamilyMember | | | | | | | | | | | | | | | | | | |
| Title: | V3 Value SetFamilyMember | | | | | | | | | | | | | | | | | | |
| Definition: | <u>A relationship between two people characterizing their "familial" relationship</u> | | | | | | | | | | | | | | | | | | |
| OID: | 2.16.840.1.113883.1.11.19579 (for OID based terminology systems) | | | | | | | | | | | | | | | | | | |
| Source Resource | XML (v3-FamilyMember.xml.html) / JSON (v3-FamilyMember.json.html) | | | | | | | | | | | | | | | | | | |
| wherein said providing of the verified database comprises: permitting a plurality of individuals to enter individual-associated data bits | <p>Plaintiff contends that a verified database of a plurality of identified individuals is provided which comprises a plurality of individual-identifier data sets (IDSs) and relationship data. A plurality of individuals is permitted to enter individual-associated data bits (IDBS) into a computerized system, each of the IDBs comprising at least one personal identifier relating to the individual and relationship data comprising data on one or more related individuals and the nature of relationship. The entered IDBs are processed to generate the IDS, one for each identified individual, being either said individual who has entered the individual-associated data bits or one of the related individuals and construct the verified database comprising IDSs</p> | | | | | | | | | | | | | | | | | | |

| 10. Claim 1 | Cerner |
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| <p>(IDBS) into a computerized system, each of the IDBs comprising at least one personal identifier relating to the individual and relationship data comprising data on one or more related individuals and the nature of relationship;</p> <p>processing the entered IDBs to generate the IDS, one for each identified individual, being either said individual who has entered the individual-associated data bits or one of the related individuals and construct the verified database comprising IDSs of identified individuals.</p> | <p>of identified individuals. The following exemplifies this limitation's existence in Accused Systems:</p> <p>The Cerner Patient Kiosk is a patient-facing solution that <u>engages patients in the registration process</u>. Our self-serve solution allows patients to check-in for appointments, view and update demographics and insurance information and complete registration forms.</p> <p>Patients are able to swipe credit card or manually <u>enter their demographic data to identify themselves</u>. Patients can view appointment information, confirm it's correct and check-in for their appointment. Forms requiring signatures are presented to the patient and once signed are stored into the patient's EHR.</p> <p>Attachment 2 (Patient Access Software Solutions - Patient Record Access Services) at 3</p> <p>Source: https://www.cerner.com/solutions/patient-access</p> <p>Beyond the molecular workflow, Cerner is working with our clients to define the correct roles and data needed in the EHR to support genomic-driven precision medicine. Examples of this client-driven work include <u>incorporating the genetic councillor into a formal EHR workflow, pilot projected around capturing a structured phenotypes and family history via third-party tools</u>, and NLP-based extraction of phenotype via chart search.</p> <p>For our EHR-based work with our clients, we are heavily leveraging a standards-backed approach via <i>SMART</i>® on <i>FHIR</i>® and CDS Hooks. Through significant investments both in our client infrastructure and associate thought leadership, we are developing a clear path and plan for third-party interests, such as a genomic content provider for pharmacogenomics, to integrate into the Cerner family of solutions. <u>While some of the FHIR services (such as sequence for genomics) are very nascent, Cerner believes that this pluggable-architecture approach provides a scalable foundation for precision medicine for our clients.</u></p> <p>Attachment 3 (Data-research) at 3</p> <p>Source: https://www.cerner.com/ap/en/solutions/data-research</p> |

11. These allegations of infringement are preliminary and are therefore subject to change.

12. Cerner has and continues to induce infringement. Cerner has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–23 of the '158 patent, literally or under the doctrine of equivalents. Moreover, Cerner has known of the '158 patent and the technology underlying it from at least the date of issuance of the patent.

13. Cerner has and continues to contributorily infringe. Cerner has actively encouraged or instructed others (e.g., its customers and/or the customers of its related companies), and continues to do so, on how to use its products and services (e.g., question and answer services on the Internet] and related services that provide question and answer services across the Internet such as to cause infringement of one or more of claims 1–23 of the '158 patent, literally or under the doctrine of equivalents. Moreover, Cerner has known of the '158 patent and the technology underlying it from at least the date of issuance of the patent.

14. Cerner has caused and will continue to cause DatRec damage by direct and indirect infringement of (including inducing infringement of) the claims of the '158 patent.

IV. JURY DEMAND

DatRec hereby requests a trial by jury on issues so triable by right.

V. PRAYER FOR RELIEF

WHEREFORE, DatRec prays for relief as follows:

- a. enter judgment that Defendant has infringed the claims of the '158 patent through Cerner.com, or a website linked thereto;

- b. award DatRec damages in an amount sufficient to compensate it for Defendant's infringement of the '158 patent in an amount no less than a reasonable royalty or lost profits, together with pre-judgment and post-judgment interest and costs under 35 U.S.C. § 284;
- c. award DatRec an accounting for acts of infringement not presented at trial and an award by the Court of additional damage for any such acts of infringement;
- d. declare this case to be "exceptional" under 35 U.S.C. § 285 and award DatRec its attorneys' fees, expenses, and costs incurred in this action;
- e. declare Defendant's infringement to be willful and treble the damages, including attorneys' fees, expenses, and costs incurred in this action and an increase in the damage award pursuant to 35 U.S.C. § 284;
- f. a decree addressing future infringement that either (i) awards a permanent injunction enjoining Defendant and its agents, servants, employees, affiliates, divisions, and subsidiaries, and those in association with Defendant from infringing the claims of the Patents-in-Suit, or (ii) awards damages for future infringement in lieu of an injunction in an amount consistent with the fact that for future infringement the Defendant will be an adjudicated infringer of a valid patent, and trebles that amount in view of the fact that the future infringement will be willful as a matter of law; and
- g. award DatRec such other and further relief as this Court deems just and proper.

Respectfully submitted,

Ramey & Schwaller, LLP

A handwritten signature in blue ink, appearing to read 'WPR', followed by a large, stylized loop.

William P. Ramey, III
Texas State Bar No. 24027643
5020 Montrose Blvd., Suite 800
Houston, Texas 77006
(713) 426-3923 (telephone)
(832) 900-4941 (fax)
wramey@rameyfirm.com

Attorneys for DatRec, LLC